IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8879 OF 2004

Ramchandra Maruti Phansekar ... Petitioner

v/s

Shankar Babu Lad and ors. ... Respondents

Mr M.K. Nesari for Petitioner.

Mr S.M. Railkar for Respondent No.7.

CORAM : D.K. DESHMUKH J.

DATE : 20TH JULY 2005.

P.C. :-

1. This is a gross case. The parties were dead in the years 1993, 1996 and 1997. The petitioner was represented by a lawyer. The Bailiff's report was received in the year 2000, appeal was dismissed against those parties as abetted in the year 2001. Nothing was done till the appeal came for final hearing. At that stage, an application was made for setting aside the abatement and the entire blame was put on the lawyer and that lawyer was neither given copy of the application nor was he joined as party to the petition. Obviously, a finding of professional misconduct that the lawyer though informed about the date of the matter kept himself away and did not give that information to the party, could not have been dealt with without giving the lawyer an opportunity of being heard. I do not find a single reason to interfere with the order. Without recording a finding that the lawyer was guilty of professional misconduct and kept the information to himself and concealed it from his client, the delay in making the application for setting aside abatement could not have been entertained. In these circumstances therefore, I do not find any error in the order impugned. Petition is rejected.

. Parties to act on the copy of this order duly authenticated by the Sheristedar / Personal Secretary of this Court as true copy.

. Certified copy expedited.